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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,239	06/20/2001	Jeffrey D. Washington	5150-48900	5831

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EXAMINER

VU, KIEU D

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,239

Applicant(s)

WASHINGTON ET AL.

Examiner

Kieu D Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2, 4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 2 and 10 recite the limitation "the collector". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kodosky et al ("Kodosky", USP 5610828).

Regarding claims 1 and 9, Kodosky teaches steps for creating a graphical program that performs a numerical function (abstract), comprising displaying a node in a graphical program in response to user input (col. 15, lines 1-4); configuring the node to receive data values, in response to user input; configuring the node to perform a numerical function (Minimum or Maximum) on at least a subset of the received data values, in response to user input (col 18, lines 27-49); executing the graphical program;

the node receiving a plurality of data values during execution of the graphical program; the node determining a data collection on which to perform the numerical function, wherein the data collection comprises at least a subset of the data values received and the node performing the numerical function on the data collection (col 11, lines 34-42); wherein the node maintains state information regarding received data values and uses the state information to determine the data collection on which to perform the numerical function (col 38, lines 63-67).

Regarding claims 2 and 10, Kodosky teaches receiving user input requesting to specify configuration information for the node, displaying a graphical user interface (GUI) for specifying configuration information for the node, in response to the user input requesting to specify configuration information for the collector (col 10, lines 22-27); wherein said configuring the node to perform the numerical function on at least a subset of the received data values is performed in response to user input received via the GUI (col 11, lines 34-42).

Regarding claims 3 and 11, Kodosky teaches specifying a collection mode for the node (col 10, lines 22-27) wherein the collection mode determines the at least a subset of the received data values on which to perform the numerical function (col 11, lines 34-42).

Regarding claims 4 and 12, Kodosky teaches the mode Always for the node (all input variables are used; col 3, lines 50-57).

Regarding claims 5 and 13, Kodosky teaches the node is a primitive node provided by a graphical programming development environment for inclusion in the graphical program (abstract).

Regarding claims 6 and 14, Kodosky teaches the numerical function performed on the data collection is a minimum value function or a maximum value function (col 18, lines 26-31).

Regarding claims 7 and 15, Kodosky teaches configuring the node to receive data values comprises connecting an input terminal of the node to an output terminal of another node in the graphical program (col 47, lines 49-52).

Regarding claims 8 and 16, Kodosky teaches one or more output terminals corresponding to one or more numerical functions (inherent); wherein said configuring the node to perform the numerical function on at least a subset of the received data values comprises connecting a first output terminal of the node to a data target in the graphical program, wherein the first output terminal corresponds to the numerical function (col 48, lines 17-34).

6. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The document cited therein teaches graphical program performing numerical functions which relates to the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu whose telephone number is (703-605-1232). The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703- 308-3116).

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-872-9306

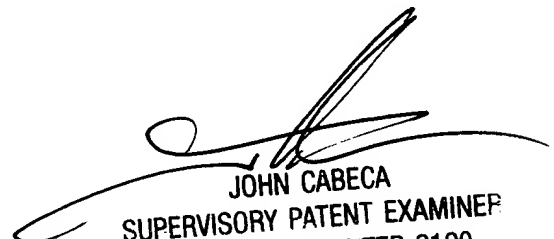
and / or:

(703)-746-5639 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

04/13/04



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100